G. R. S. App. F. IX-4]

1943 - 44

W File No. 118-43.

Previous References.
Dep. No. 157/W of 1943-44. War)

Serial Nos. 1 & 2.

Later References.
Dep. No. W294 of 1943-44

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Two only

Part B for January 1944.

SUBJECT.

Prosecution for the disobedience of the Mysore House Rent Control Order.

M. Krishnan.
30.1.44.

1241/W.

W 118-43-1

1241/W

No.H.R.C.24/43.44

Office of the Deputy Commissioner
Bangalore District
Dated 17th November 1 9 4 3.

To

C. Narayanaswamy Naidu Esq., B.A., B.L.,
Secretary to the Government of [redacted]
Mysore, B a n g a l o r e.

Sir,

Exemption of orders passed under the House Rent Control Order, 1942.

- - -

I have the honor to state that as per House Rent Control Order of 1942, a very large number of cases relating to the Bangalore City has been coming up for disposal before this office and orders are also being passed in accordance with the said order. Some doubt is however felt as to how orders disallowing the extension of tenancy passed under Section 8(2)(d) have to be executed. The House Rent Control Order has been promulgated in exercise of powers conferred by clause(bb) of the Sub Rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and the penal provision of the said rule is that if any person contravenes any order made under Rule 81, he shall be punishable with imprisonment for a term which may extend to three years or with fine or both. I therefore request to be informed if a tenant whose claim for extension of tenancy is disallowed, can be prosecuted and proceeded against under Rule 81(4) of the Defence of India Rules for refusing to vacate the premises in violation of an order lawfully passed under the House Rent Control Order. It may also be kindly intimated if the Superintendent of Police can be require to get the premises vacated as has been suggested by a few counsel

The favour of an early reply is requested.

I have the honor to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Bangalore District.

T.M.C

(1) Avoid for "paint and oils" whether a Law Section is to be consulted or the book itself of a D C Bloss

(2) Secretary (Law) 23/12 3/3 23/11/43

(4) Copies of the Housing Control order and the Defence of India Rules are herewith put up for reference.

5) Since a final provision has been provided for in Rule 81 (4) of the Defence of India Rules in cases where persons violate any order made under Rule 81, such persons can be prosecuted if necessary on application received from the aggrieved parties.

6) Regarding the question of vacating the premises and such case it appears, the order of the District Magistrate may be executed by the police.

Rule 22/12 7) Re: entertaining tenancy clause 8 (1) of the order applies, & the Controller can either extend the tenancy or cancel the order, under circumstances mentioned in clauses 8 (2) & (3). Any person aggrieved by the order, has the right to appeal within a certain time, & the Rent Court under clause 9 of the order, i.e. decision of the Rent Court shall be final.

8) If a claim for tenancy is

is disallowed by the Controller, then the tenant's right to remain in the house after the date fixed in the Order ceases and he becomes liable to be prosecuted and removed from the house under the provisions of the Criminal Code of Procedure.

Law Secretary 3 23/12/43

Secretary to Government 23-12-43

U.O.N. 4770/43 dated 23.12.43

(10) The file is sent with reference to the above Order for favour of opinion, please.

G. Bowles
Asst. Secretary (Law)
23/12/43

(11) An order passed by the House Rent Controller under the House Rent Control Order, 1942, cl.8 (2)(d) can, in terms, only be that the tenant's claim for extension for ~~eviction~~ creation (as the case may be) is disallowed, and not that the tenant should vacate, so that, on the one hand, the order does not come within the purview of R.81 (2) (4A) of the Defence of India Rules and, on the other hand, there is no order that could be ~~xxxxxxx~~ disobeyed within the meaning of Rule 81 (4).

(12) I am therefore of the opinion that, in such circumstances, the landlord's only remedy is to file a suit for ejectment in a civil court. C.C. Gupta P.C. 27/12/43.

H/27.12.43.

Secretary (Law) 28/12

Under Secretary (Law) 3 6-1-44

Secretary to Government 8/1/44

Reminder since received from Dc. Bangalore also placed on the file

8/1

The above opinion of the Counsel will be communicated to the D.C. & Asst. Govt. Dcr & the S.C.

[illegible]
27/1/44

Min Edn
x Min R x L

WO
11/1/44

Draft Ltr to Army re Govt. Sanction to Headquarters.

[illegible]
17/1/44

WO
15/1/44

Sanction may be taken as suggested above.

[illegible]
25/1/44

(Please see previous page for Min R x L's order.)

WO

Refd with draft to CE Re Lbcs.
26/1/44

[illegible]

Issues 1664/W & 26/9/44 Refd to CE Re Lbcs.
1665-73 Do " to CE DC Blore Lbcs.

RS
26/1
2.
Do.

5760
10 JAN. 1944
OF MYSORE

OFFICE OF THE MINISTER FOR EDUCATION
Date 11/1/44
No. H.293

OFFICE OF THE MINISTER IN CHARGE OF LAW
25 JAN 1944
No. 4333

Seen by R.L.L. Min
25/1

4888/43
P

OFFICE OF THE REVENUE COMMISSIONER
IN MYSORE,

No.R.A.23 of 43-44. Bangalore, dated 28th December 1943.

From

Rajasevaprasakta
M. SESHADRI, Esq., M.A.,
Revenue Commissioner in Mysore,
Bangalore.

To

C. NARAYANASWAMI NAIDU, Esq., B.A., B.L.,
Secretary to the Government of Mysore,
Law Department, Bangalore.

Sir,

Execution of the orders passed under the "Mysore House Rent Control Order" of 1942.

In inviting your kind reference to letter No. H.R.C.24 of 43, dated the 17th November 1943, from the Deputy Commissioner, Bangalore, seeking instructions in the matter of execution of the orders passed under the Mysore House Rent Control Order, I have the honour to state that in an appeal brought before me under Section 9(1) of the said order by one Mr. Garudachar, against one Mr. Venugopala Naidu, Sub Assistant Conservator of Forests (Mysore Service), orders were passed by me on 1st November 1943, directing the respondent tenant, Mr. Venugopala-naidu to vacate the house by the first December 1943.

Though nearly twenty days have elapsed in the month, after the expiry of the time granted, the house in question has not been vacated yet. The Deputy Commissioner to whom a copy of the order was sent in due course probably could not take action to execute the order in view of the doubt already felt by him and regarding which a reference has already been made to you as stated in para 1 supra with the result final orders passed under the said order are pending execution. The doubt felt by the Deputy Commissioner, Bangalore District in his letter under reference is probably due to the fact that the Rent Control Order itself does not provide for the mode in which orders passed under it are to be executed.

In the circumstances, I request to be informed whether the Deputy Commissioners of Districts who are empowered by Government in their notification dated the 20th March 1942 to exercise powers under Rule 81 in their respective jurisdictions, can take action under Rule 132 (1) read with (3) of the Defence of India Rules to enforce the orders passed under that rule (Rule 81) the Rent Control Order being an order under that rule or whether the execution of the orders passed under the House Rent Control Order can be effected by them only taking out prosecutions under rule 81(a) of Defence of India Rules against the persons concerned for disobeying the orders passed under that rule.

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I request the favour of early orders.

I have the honour to be,
Sir,
Your most obedient servant,

M. N. Dandekar
25.12.40
Assistant Commissioner
for REVENUE COMMISSIONER. absent from the Station.

YBR.

Appendix F. G.—1]

SUBJECT.....

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Section W

File No. 118-43

Serial No. 2.

Diary No. of letter replied to...1241/W...

No. W1669 the R.C.

To Execution of Ct orders passed under Ct Mysore House Rent Control Order 1942

Sir,

General and Revenue Secretariat

( )

the *194* .

With reference to your letter No R.A. 23 of 1943-44 dated 28th Dec. 43 on the above subject, I am directed to state that an order passed by the Hon'ble Rent Controller under the H.R.C. order 1942 clause 8(2)(d) can, in terms of the said clause, be set aside only if the tenant's claim for eviction or execution (as the case may be) is disallowed as not that the tenant should vacate the house, or the one half. The order does not contravene the provisions of Rule

Date of issue... 28.1.44

Signed by... Mr. S.K.V.

enclose herewith copy of the opinion of the Law Dept

(Vide Paras 11 + 12 of the Notes)

List of enclosures.....

Copied by.....

Examined by.....

WD 04161—GPB—60,000—24-10-41

81 (2)(bb) with Delegation Rules
as on the other hand, there is no order
that could be disobeyed within the
Meaning of Rule 81 (4).

In the above circumstances the Landlords
only remedy is to file a suit for
ejectment in a Civil Court.

Memo. No. 1665-73.
Copy to D CB Lon with reference to his
letter dt 17th Nov. 73.
Memo. No. 1665-73 (Enc. 1)
Copy to the other DCs with a copy of
the Bhan Dcs letter dt 17th Nov. 73